

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF TENNESSEE  
NASHVILLE DIVISION**

|                                |   |                                 |
|--------------------------------|---|---------------------------------|
| <b>TONY WOLFE,</b>             | ) |                                 |
|                                | ) |                                 |
| <b>Plaintiff,</b>              | ) |                                 |
|                                | ) | <b>No. 3:11-cv-0751</b>         |
| <b>v.</b>                      | ) |                                 |
|                                | ) | <b>Judge Sharp</b>              |
| <b>PAUL ALEXANDER, et al.,</b> | ) | <b>Magistrate Judge Knowles</b> |
|                                | ) |                                 |
| <b>Defendants.</b>             | ) |                                 |

**ORDER**

*Pro se* Plaintiff Tony Wolfe filed a Complaint on August 5, 2011, against a number of defendants, wherein he sought relief under 42 U.S.C. § 1983 for violations of his constitutional rights purported to have occurred during his confinement at the Tennessee Department of Correction (“TDOC”). *See* (Docket Entry No. 1). Pending before the Court is *Plaintiff’s Motion for Preliminary Injunction and/or Temporary Restraining Order*. (Docket Entry No. 74). In essence, Plaintiff claims Defendants are not allowing him the right to refuse a medical diet and receive a regular food tray.<sup>1</sup> Several Defendants filed responses in opposition to said motion. *See* (Docket Entry Nos. 75 and 78).

Magistrate Judge Knowles entered a Report and Recommendation (“R & R”) (Docket Entry No. 79) in this case on October 1, 2012, concluding,

A number of Defendants have filed a Response to the Motion (Docket No. 78), with the Affidavit of Adrienne Sims (Docket No. 78-1). Ms. Sims’ Affidavit establishes that, since August 20, 2012, Plaintiff has received a regular diet tray for all meals.

Plaintiff has not submitted a Reply to the Response or otherwise contested the factual matters set forth in Ms. Sims’ Affidavit.

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<sup>1</sup> Plaintiff is housed at the Deberry Special Needs Facility in Nashville, Tennessee, because of his kidney failure. *See* (Docket Entry No. 1 at 3).

For the foregoing reasons, the instant “Motion for Preliminary Injunction and/or Temporary Restraining Order” (Docket No. 74) should be DENIED AS MOOT.

(*Id.*). Plaintiff filed a timely objection to the R & R on October 12, 2012, along with an Affidavit in support. (Docket Entry Nos. 82 and 83). In the Affidavit, Plaintiff admits that he has been receiving a regular food tray since August 20, 2012. (Docket Entry No. 83 at ¶ 9).

Having considered the matter *de novo* in accordance with Fed. R. Civ. P. 72(b), the Court agrees with the Magistrate Judge’s recommended disposition.


Accordingly, the Court hereby rules as follows:

(1) The Report and Recommendation (Docket Entry No. 79) is hereby ACCEPTED and APPROVED and the objection thereto (Docket Entry No. 83) is hereby OVERRULED; and

(2) *Plaintiff’s Motion for Preliminary Injunction and/or Temporary Restraining Order* (Docket Entry No. 74) is hereby DENIED as moot.

This action is hereby returned to the Magistrate Judge for further pretrial management in accordance with Local Rule 16.01.

**It is SO ORDERED.**

  
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KEVIN H. SHARP  
UNITED STATES DISTRICT JUDGE